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TIMOTHY W. HOFFMAN

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA

In re

SONOMA WEST MEDICAL CENTER,

Debtor.

) Case No. 18-10665 RLE
) (Chapter 7)

) **MOTION FOR ORDER**
) **AUTHORIZING EXAMINATION**
) **PURSUANT TO BANKRUPTCY**
) **RULE 2004**

) [Palm Drive Healthcare District]

TO THE HONORABLE ROGER L. EFREMSKY, UNITED STATES BANKRUPTCY JUDGE:

Timothy W. Hoffman, the duly-appointed Chapter 7 Trustee in Bankruptcy of the Estate of Sonoma West Medical Center, respectfully requests an Order for Examinations pursuant to Bankruptcy Rule 2004 and, in support thereof, represents as follows:

1. On September 26, 2018, Debtor Sonoma West Medical Center, filed a voluntary petition for relief under Chapter 7 of the Bankruptcy Code. Thereafter, movant Timothy W. Hoffman, was duly appointed as the Chapter 7 Trustee in Bankruptcy for the Debtor's Estate.

2. As is set forth below, good cause exists to review the documents of Palm Drive Healthcare District to investigate the status of the Debtor's inventory and furniture, fixtures, and equipment as of the Petition Date.

3. The Debtor was a nonprofit corporation formed and funded by concerned community members to operate a full service hospital at the site of the former Palm Drive Hospital, owned by the Palm Drive Healthcare District ("the District"), a public hospital district

1 which was a debtor in two Chapter 9 cases in this Court and which ultimately shut down
2 operations. The Debtor operated the hospital under a “Management and Staffing Services
3 Agreement”, dated March 18, 2015, as amended. The Management and Staffing Services
4 Agreement required the infusion of substantial cash by the organizers of the Debtor to fund restart
5 costs, including the purchase of inventory, equipment, and other assets, described in the
6 Agreement as “donated assets”. The Agreement further provided at Section 8.4(d) that on its
7 termination “...all donated assets utilized by the Hospital during the term of this agreement
8 [would] remain in the possession and ownership of the District.

9 4. There was no provision in the Management and Staffing Services Agreement
10 providing that accessions and additions to “donated assets”, such as newly purchased inventory,
11 would become the property of the District. At no time were the Districts rights under the
12 Agreement perfected by the filing of a UCC-1 Financing Statement.

13 5. The Trustee is informed by the representatives of the Debtor that from and after
14 March 18, 2015, the Debtor purchased millions of dollars of inventory and equipment in addition
15 to the “donated assets” and that there were likely several hundred thousands of dollars worth of
16 such assets onsite as of the Petition Date.

17 6. These assets were almost certainly property of this Estate.

18 7. The Debtor’s management has further informed the Trustee that following the
19 closure of its business, the District has refused repeated requests to provide the Debtor any
20 information as to the value and disposition of its inventory and equipment as of the Petition Date.

21 8. To complete his investigation into the Debtor's financial condition, and fully
22 investigate Debtor’s income, assets, and liabilities, the Trustee requires the production of the
23 documents described in the Exhibit A attached hereto.

24 9. Upon issuance of a Rule 2004 Order for Examination by the Court, the Trustee will
25 incorporate the attached Exhibit A into a subpoena for production of documents to the office of
26 MacConaghy & Barnier, PLC, 645 First St. West., Suite D, Sonoma, CA 95476, for a date and
27 time at least 20 days after the issuance of the Order.

28 WHEREFORE, the Trustee prays that the Court enter its Order for Examination of Palm

1 Drive Healthcare District and for such other and further relief as the Court deems proper.

2 Dated: February 3, 2019

MACCONAGHY & BARNIER, PLC

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/s/ John H. MacConaghy

John H. MacConaghy

Attorneys for Trustee,

Timothy W. Hoffman

EXHIBIT A TO MOTION FOR ORDER FOR EXAMINATION
In re Sonoma West Medical Center

DEFINITION OF TERMS

As used herein, the following terms have the meaning and significance set forth below, unless otherwise specifically indicated:

1. Document, writing: The terms “document,” “documents,” “writing,” or “writings” shall mean and include all documents, papers, books, accounts, letters, photographs, objects, emails, electronically recorded information, or tangible things, including, without limitation, all writings, **emails**, papers, drawings, graphs, charts, photographs, phonographs, other data compilations from which information can be obtained or translated (if necessary) into reasonably usable form, all items which embody any handwritten, typed, printed, oral, visual or electronic communication, representations, agreements, plans, blueprints, specifications, letters, carbon copies of letters, telegraphs, telexes, intra-corporate or intra-agency communications, minutes, bulletins, circulars, scripts, press releases, notes, instructions, advertisements, literature, books, magazines, newspapers, booklets, work assignments, reports, motion picture files, video tapes, kinescope, sound recordings, studies, analyses, comparisons, surveys, computer programs and data, accounts, financial statements, projections, position sheets, memoranda, memoranda of conversations, notes, notebooks, diaries, desk pads, logs, telephone bills and call records, data sheets, work sheets, analyses, calculations, drafts of the aforesaid, and shall include all addition to or alteration of any such documents, including, without limitation, marginal notes, stamps, interlineations, or comments.

2. Debtor: The term “Debtor” means Sonoma West Medical Center, its attorneys, and as appropriate, its predecessors, subsidiaries, divisions, affiliates, present and former officers, directors, members, partners, trustees, employees and agents, and all persons presently or formerly acting or purporting to act on its behalf or on the behalf of its subsidiaries, divisions, affiliates, or predecessors.

3. You: The term “You” means Palm Drive Healthcare District, its attorneys, and as appropriate, its successors, present and former officers, directors, employees and agents, and all persons presently or formerly acting or purporting to act on its behalf or on the behalf of its subsidiaries, divisions, affiliates, or predecessors.

4. Management and Staffing Services Agreement: The term “Managing and Staffing Services Agreement” means that certain Agreement for Sonoma West Medical Center”, dated March 18, 2015, and all amendments, addenda, and supplements thereto.

5. Pertaining to, in connection with: As used herein, “pertaining to” or “in connection with” means consisting of, summarizing, describing, or referring in any way to.

6. Any, or, and: As used herein, “any” should be understood to include and encompass “all”; “or” should be understood to include and encompass “and”; and “and” should be understood to include and encompass “or”.

INSTRUCTIONS FOR CLAIMS OF PRIVILEGE

If you claim that a document required to be produced is privileged, please designate each such document with a statement as to the type of privilege claimed and its basis and identify each person who has seen such document or to whom such was made available, whether nor not actually seen.

INSTRUCTIONS FOR FORMATTING OF PRODUCTION

Pursuant to the provisions of F.R.Civ.P. 45(e), you are instructed to produce the documents set forth above in a reasonably usable form or forms, such as paper copies, Microsoft Office Suite, or Quickbooks. The documents may not be produced in a form requiring use of a specialty software code not available to the Trustee.

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SCHEDULE OF DOCUMENTS TO BE PRODUCED

1. Any and all documents pertaining to any “donated assets” as described in the Management and Staffing Services Agreement.
2. Any and all documents pertaining to any inventory, furniture, fixtures, and equipment located at the Palm Drive Hospital as of March 18, 2015.
3. Any and all documents pertaining to any inventory, furniture, fixtures, and equipment located at the Palm Drive Hospital as of September 26, 2018.
4. Any and all documents pertaining to any sale, lease, license, or other transfer by YOU of any tangible or intangible property located at the Palm Drive Hospital as of September 26, 2018.